

Thank you for the opportunity to address the Senate Judiciary Committee. My name is Tim and I have lived in Michigan all of my life with the exception of 4 years of military service out of state.

My concerns with SB 1560 to are as follows and are mainly centered around increased expense for the residents of this State.

As you know, 4 states are deemed in "substantial compliance" with SORNA under the Adam Walsh Act, Ohio, Delaware, South Dakota, and Florida. Ohio was the first and after they implemented the substantial compliance requirements approved by the SMART office, many of the affected sex offenders filed court proceedings because Ohio laws reclassified them to a Tier level that was more punitive than their original sentence required. Some had gone from the lowest number of years of registration required to the life time registration under the Adam Walsh Act. In June, 2010 the Ohio Supreme Court overturned the new Tier Classification system as it applied to prior sex offenders and returned them to their original tier levels. I understand that Michigan, unlike Ohio, does not have tier levels; however we have reporting requirements and number of years on the registry specifications that are similar.

Some of the states coming into "substantial compliance" with SORNA after Ohio were of course mindful of the cost that Ohio had incurred.

Delaware's "substantial compliance" included transition provisions allowing those whose convictions predated the Adam Walsh compliance laws the right to request a Board of Parole review and final determination of Tier designation.

South Dakota's "substantial compliance" included 20 crimes. This had the effect of narrowing who would be included as a sex offender. South Dakota also limited their exposure to some of the problems Ohio faced by defining recidivist sex offenders more correctly to include only those who committed a second separate offense, as opposed to multiple charges for the same offense, or multiple convictions at the same time.

The problem of classification into the Adam Walsh Tier system for Michigan's sex offenders is that Michigan has redefined many of its sex offender statuses over the years. By way of example, 750.520E 1A prior to 1995 was CSC 4th degree with no ages listed under 1A. After 1995 the law was changed to read under 1(a) that other person is at least 13 years of age but less than 16 years of age, and the actor is 5 or more years older than that other person. What was prior to 1995 1A became 1B. So many of those sex offenders on the registry today will be put in Tier levels under this proposed act not based on the crime they committed when they were convicted but based on how the crime is now listed.

Sometimes during in- person verifications the police agency experiences problems because the site goes down, or perhaps the registrant is required to have an updated picture taken. The registrant should be issued a letter of compliance instead of requiring the registrant to come back in when the technical error is cleared.

The MSP should also include in its PSOR a stronger statement warning that information on the site should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry. Any such action could result in civil or criminal penalties. This statement is now buried in the access page to the Michigan PSOR. The State of South Dakota has included in their law "Any person who commits any crime as result of information gained through the sex offender registry or through public information kept pursuant to 22-24B-15 (registration records) is guilty of a Class 6 felony. Such liability is in addition to any other civil or criminal penalties". Michigan should do the same.

Michigan should follow Smart Offices SORNA Discretionary Exemptions from Web site inclusion found on page 35 of the DOJ Guidelines:

1. Information about tier I sex offenders exempted from web inclusion other than a specified offense against a minor.

2. The name of an employer of the sex offender exempted from web inclusion.
3. The name of an educational institution where the sex offender is a student exempted from web inclusion.

Michigan should consider including some of the provisions that other states in compliance with SORNA added:

- Delaware set up a Sex Offender Management Board.
- In Delaware, a temporary resident is defined as "any person who is for more than 7 days or more than an aggregate of 30 days in a 12 month period employed or works or who is a full or part- time student in Delaware".
- In Delaware, all sex offenders placed at all Tier levels are given a chance for relief from the Tier placement after a specified number of years unless their victim was under 12 years of age, however if the offender was under 18 years of age at the time the crime was committed and the victim was under 12 years of age, then they too are given a chance for relief from the Tier placement. All Tier III offenders after 25 years of clean record, may petition to re-designation to Tier II, but if re-designated Tier II they are not released from lifetime registration and verification. All Tier II offenders can petition for re-designation to Tier I after 10 years of clean record. All Tier I can petition for relief from all obligations imposed after 10 years of clean record.
- South Dakota added a provision stating that "no city, county, municipality, or township may, by local ordinance, restrict or mitigate residence or community access for convicted sex offenders inconsistent with the provisions of the act". (South Dakota school zones are 500ft.)
- In South Dakota, offenders may petition for order of exemption from safety zone restrictions.

- In Florida, to be counted as a prior offense (recidivist) the conviction must be sentenced separately, or adjudication of delinquency entered separately, (on a separate date) prior to the current offense and sentenced or adjudicated separately from any other conviction that is to be counted as a prior offense regardless of the date of offense of the offense.
- Florida also allows that if a person knowingly distributes or publishes false information relating to a sex offender, or misrepresents as being public record information, commits a misdemeanor of the first degree.
- Ohio includes an opportunity for children 14 -17 to be reclassified or declassified by judge if they are not in Tier III. A mandatory review hearing must be held upon completion of disposition. The judge may terminate the child's classification, reclassify the child into a lower tier or continue the child's original classification. Also a child may petition for reclassification or declassification 3 years after the mandatory review and every 5 years thereafter.

I hope these suggestions will warrant further discussion and I thank you for your time.